

VZCZCXRO5715  
PP RUEHPA  
DE RUEHDK #2000/01 2331042  
ZNY CCCCC ZZH  
P 211042Z AUG 06  
FM AMEMBASSY DAKAR  
TO RUEHC/SECSTATE WASHDC PRIORITY 6068  
INFO RUEHZK/ECOWAS COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 DAKAR 002000

SIPDIS

SIPDIS

STATE FOR AF/W, AF/RSA, INR/AA, AND DRL/AE  
PARIS FOR POL - D'ELIA

E.O. 12958: DECL: 08/21/2016  
TAGS: [PINS](#) [PHUM](#) [KJUS](#) [SG](#)  
SUBJECT: SENEGAL'S JUDICIARY SHAKEN BY CORRUPTION SCANDAL

Classified By: DCM Robert P. Jackson for reasons 1.4 (b) and (d).

#### SUMMARY

1. (U) After protracted, heated debate about the extent of corruption in Senegal, a scandal involving one of the most senior judges has come to light. An investigation launched by the Inspector General for the Judiciary (IGAJ) led to early retirement or transfers of the judges involved and prosecutions of the others implicated. The affair led the Bar to reflect on the practice of ethics by its attorneys, sparked suspicions and accusations from the past, and gripped the interest of the media and public. END SUMMARY.

#### JUDGE ACCUSED OF BROKERING A DEAL

2. (U) Over the weekend of July 8, local media broke the story of Momar War Seck, a criminal defendant charged with breach of trust and facing two years in prison, who obtained the help of Aminata Mbaye, judge in the Cour de Cassation, Senegal's highest court of appeals. Allegedly, Mbaye arranged a deal in which Seck would give 15 million CFA francs (CFAF) (USD 30,000) via Mbaye to Bamba Niang, the public prosecutor handling the case, and Niang's deputy. Niang then asked Malick Lamotte, judge in the case, and Lamotte's two "Assessors" (judges assisting him with the case) to give a favorable ruling. When Lamotte and his Assessors refused, Mbaye offered the Assessors two million CFAF each. The Assessors accepted, but a former court clerk, Mamadou Diop, confessed to Lamotte the full story and Diop's role in the plot. Diop revealed that he is uncle to Djiby Ndiaye, manager of the media group Future Medias (owned by the family of singer Youssou Ndour). Ndiaye transferred the 15 million CFAF from Seck to Mbaye, who apparently failed to ultimately give the money to its intended recipients. Lamotte confirmed the story with Ndiaye and then alerted the President of the regional tribunal of Dakar. The Ministry of Justice was informed and an investigation launched by the IGAJ.

3. (U) The local press was quickly saturated with the story. "Le Matin" suggested Niang was being purposely discredited by those jealous of his quick professional rise. "Walfadjri" reported Mbaye's colleagues on the bench asked her to quit, in the hopes that it would reduce "collateral damage" to other judges. She refused but was suspended pending the results of the investigation.

#### DAMNING EVIDENCE

4. (U) When Judge Lamotte confirmed the existence of corruption with Ndiaye before reporting it to the tribunal president, Ndiaye admitted he had recorded some of his telephone conversations with Mbaye discussing the arrangement. The transcripts of those conversations were

subsequently made public and revealed the existence of an additional character in the saga - Rawane Fall, who apparently took suitcases of money from Ndiaye to give to Mbaye. During one conversation, Mbaye said the court was used to settling cases this way. She was also recorded discussing the payment arrangements with Ndiaye.

#### INSPIRING AN ETHICS REVIEW AND NEW ACCUSATIONS

-----

15. (U) The Union of Senegalese Magistrates (UMS), who had, months before, admitted corruption was no longer a problem the judiciary could hide, noted this was an occasion for judges to reflect on "the cardinal principles" of independence, competence, and integrity. Felix Sow, President of the Senegalese Bar Association, called for a total re-examination of the state of justice in Senegal. He commented that corruption was much more damaging to lawyers than judges because there has been "an impoverishment of the profession." The Bar suspended Abdourahmane Sow, Seck's lawyer.

16. (U) The case spawned new finger-pointing. Sow pointed out that the judiciary has known about and failed to deal with cases of corruption dating from long before. Jacques Habib Sy of Transparency International told reporters this kind of corruption begins with police. Pierre Goudiaby Atepa, architect and key advisor to President Wade, accused one of the Assessor's involved in the case with having interfered with an earlier case pitting Atepa against one of his ex-employees. The IGAJ included Ibrahima Bakhoun, predecessor to Bamba Niang, in its investigations. Local daily "Le Populaire" reported the IGAJ examined a series of transactions in Bakhoun's bank accounts over the past four years.

DAKAR 00002000 002 OF 002

#### ARRESTS AND RETIREMENT

-----

17. (U) On August 3, Djiby Ndiaye, Momar War Seck, Rawane Fall, and Mamadou Dioup were arrested in connection with the case and charged with attempt to corrupt a judge in the exercise of his duties and conspiracy. They risk between one and five years in prison.

18. (U) None of the judges were arrested. For Aminata Mbaye, the Council for Judicial Discipline ultimately required her to retire (with full benefits). Bamba Niang was removed from office. The Council suspended Ibrahima Bakhoun for five years.

#### COMMENT

-----

19. (C) Two factors appeared to work in favor of Mbaye and the other judges implicated in this case. The media reported that the judges were not arrested, because the Government did not want to risk putting them on trial and having them reveal damaging information. Moreover, as local daily "Walfadjri" reported, the Council for Judicial Discipline is largely composed of colleagues and friends of Mbaye. Malick Sow, a judge and contact of the Embassy, confirmed that report. Sow presented the mainstream view of judges, reminding us that judges are under enormous pressure from their families to rule favorably to them and those with ties to their families. According to Sow, it is a source of power to be able to boast of a family member who can "regulate problems." He also spoke of the value of maintaining a veil of respect for the judiciary and of the stigma that this affair will bring to the judges involved. Nevertheless, he admitted that Judge Mbaye and the others may not be out of the woods yet. He said the Government has up to three years to prosecute them before the statute of limitations runs out.

110. (C) While the brouhaha over this case has already started to diminish, the problems with the judiciary are likely to remain. After one UMS meeting to discuss the

impact of this case on its ranks, UMS President Mamadou Deme revealed the Government has not yet fulfilled the promises it made to the magistrates to improve its salary and working conditions. That, coupled with the persistent feeling expressed by Malick Sow that this kind of corruption is an unavoidable aspect of African culture, leaves a feeling that the goal of an independent and incorruptible judiciary in Senegal may yet be a long way off. END COMMENT.  
JACOBS